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In re Application of
Aleksandr L. Yufa
Application No. 09/015,458
Filed: January 29, 1998
For: METHOD FOR WIRELESS
COMMUNICATING APPARATUS FOR
PRECISE ANALYZING OF ENVIRONMENT

:
: DECISION DISMISSING
: REQUEST FOR
: RECONSIDERATION AND
: DECISION GRANTING
: PETITION TO ACCORD THE
: APPLICATION A FILING DATE

This is a decision on the request for reconsideration of the petition to expedite the petition filed on November 8, 1999, and the petition to accord the continuation application papers a filing date of April 28, 1999 under 37 CFR 1.53(d).

On January 29, 1998, Petitioner filed prior application 09/015,458.

On April 28, 1999, Petitioner filed a request under former 37 CFR 1.62 for a file wrapper continuation of prior application No. 09/015,458.

On June 10, 1999, Technology Center 2800 mailed a Notice of Improper Application (Notice) which indicated the request under former 37 CFR 1.62 was being treated as a continued prosecution application under 37 CFR 1.53(d) (CPA). The Notice also indicated that the prior application was not a complete application filed on or after June 8, 1995, and thus the application could not be accepted as a proper CPA.

On June 21, 1999, a petition and a petition fee were filed. Petitioner requests that the request for a file wrapper continuation under former 37 CFR 1.62 be treated as an application for continued prosecution under 37 CFR 1.53(d), with a filing date of April 28, 1998.

On September 7, 1999, Petitioner filed a petition to expedite the consideration of the prior petition to accept a continuing prosecution application.

On October 28, 1999, the petition to expedite the petition was dismissed.

In response, on November 8, 1999, the present request for reconsideration of the petition to expedite the petition was filed, noting that prior application 09/015,458 had previously been made special pursuant to 37 CFR 1.102(c) and thus treatment of the June 21, 1999, petition should be expedited.

The request for reconsideration of the petition to expedite the petition is dismissed as moot in view of the petition now being before the deciding Official for action on the merits.

A review of the record reveals that the request for file-wrapper continuation application under former 37 CFR 1.62 as treated as a request for CPA met the requirements of 37 CFR 1.53(d). Thus, the CPA application papers have been accorded a filing date of April 28, 1999 (as a CPA of application 09/015,458 filed January 28, 1998).

The petition is granted.

The Notice of Improper Application mailed June 10, 1999, was sent in error and is hereby vacated.

The preliminary amendment to the specification filed April 28, 1999, will be entered in due course and must be considered by the examiner for entry of new matter not described in the application as filed. 35 USC 112, first paragraph; 35 USC 132.

The petition fee of \$130.00 accompanying the petition to accept a continuing prosecution application was not necessary and has been scheduled for refund.

The application has been forwarded to Technology Center 2800 for processing as a CPA with a filing date of April 28, 1999, of prior application 09/015,458.

Any inquiry directed to this matter should be directed to Robert Clarke at (703) 305-9177.

Fred A. Silverberg
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